IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 13202 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE J.M.PANCHAL
THE HON'BLE SMT. JUSTICE ABHILASHA KUMARI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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NETRA (MEMNAGAR) CO-OP.H.SOCI.LTD.-THR' ITS CHAIRMAN - Petitioner(s)

Versus

TORRENT POWER AEC LTD. THR' GENERAL MANAGER & 1 - Respondent(s)

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Appearance :
MRS FALGUNI D PATEL for Petitioner(s) : 1,
NOTICE SERVED BY DS for Respondent(s) : 1
MR R.M.CHHAYA for respondent No.2.

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CORAM : HONOURABLE MR.JUSTICE J.M.PANCHAL

and

THE HON'BLE SMT. JUSTICE ABHILASHA KUMARI

Date : 28/07/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE J.M.PANCHAL)

1. Rule. Learned counsel Mr. R.M.Chhaya waives service of notice on behalf of the respondent No.2. The record indicates that though the respondent No.1 is duly served with the notice for final disposal of the petition, it has neither appeared through lawyer nor through its constituted agent nor filed affidavit-in-reply controverting the averments made in the petition.

2. By filing this petition under Article 226 of the Constitution of India, Mr. Kishorbhai N. Thakkar, who is Chairman of Netra (Memnagar) Cooperative Housing Society Ltd., which is registered under the provisions of the Gujarat Cooperative Societies Act, 1961, has prayed to issue a writ of mandamus or any other appropriate writ or order, directing the respondent No.1 i.e. Torrent Power AEC Ltd., to supply electricity connection to the residential bungalows constructed by the

society.

3. The petitioner i.e. Kishorbhai N. Thakkar is Chairman of Netra (Memnagar) Cooperative Housing Society Ltd., behind Memnagar Fire Station, Near Sima Saurabha Society, Memnagar, Ahmedabad. The society is in possession of Final Plot No.288 + 389, which is included in Town Planning Scheme No.29,Naranpura. The society wanted to develop the land. Therefore, the society through its power of attorney holder Mr. Sunilbhai Rasiklal Soni applied to the Ahmedabad Municipal Corporation to permit the society to develop the land in question. From the record of the case it is evident that Ahmedabad Municipal Corporation granted 4 commencement letters (Raja Chiths) dated December 1, 2005, December 1, 2005, December 26,2005 and Januar 10, 2006. Pursuant to those commencement letters, the society has constructed residential bungalows at the address mentioned above. After the

construction of bungalows was over, the society should have obtained Building Use Permission and thereafter applied to the respondent No.1 for supply of electricity connection. However, without obtaining Building Use Permission, the petitioner applied to the respondent No.1 for supply of electricity connection to the bungalows constructed by it. The said request has been rejected by the respondent No.1 which is quite evident from the contents of letter dated June 21, 2006, addressed by the General Manager of Torrent AEC Ltd. to the Chairman of the society. By the said communication, Chairman of the society has been called upon either to produce Building Use Permission or conditional order of the High Court to enable the respondent No.1 to supply electric supply to the bungalows constructed by the society. Under the circumstances, the petitioner has filed the instant petition and claimed relief to which

reference is made earlier.

4. The petition was placed for admission hearing before this Bench on July 7, 2006 and after hearing the learned counsel for the petitioner, notice for final disposal of the petition was issued making it returnable today i.e. July 28, 2006. As observed earlier, though the respondent No.1 is duly served, it has not contested the petition at all. This Court has heard Mrs. Falgini. D. Patel, learned counsel for the petitioner and Mr. R.M.Chhaya, learned counsel for the respondent No.2. Having regard to the facts of the case, this Court is of the opinion that interest of justice would be served if following directions are issued :

(1)The petitioner will approach the Ahmedabad Municipal Corporation for obtaining Building Use Permission within thirty days from today with a proper application/form/format and by paying

requisite fee, if any.

(2)The Ahmedabad Municipal Corporation is directed to take decision on the application, which may be submitted by the petitioner, within four months from the date of receipt of the same.

(3)The petitioner shall apply to the respondent No.1, i.e. Torrent Power AEC Limited, for providing electricity connection to 39 bungalows constructed by it with a proper application/form/format and by paying charges within a week.

(4)The respondent No.1, i.e. Torrent Power AEC Limited, is directed to provide electricity connection to the bungalows constructed by the petitioner within one month on usual terms and conditions.

(5)In case the Ahmedabad Municipal Corporation is not approached by the petitioner for obtaining Building Use Permission within the period stipulated

in this order, the Ahmedabad Municipal Corporation shall inform the Torrent Power AEC Limited to disconnect the electricity supply made available to the bungalows constructed by the petitioner and in such an eventuality, it would be open to the Torrent Power AEC Limited to disconnect the electricity supply provided to the bungalows constructed by the petitioner within a period of fifteen days.

(6)In case the Ahmedabad Municipal Corporation does not grant Building Use Permission, it will ask the Torrent Power AEC Limited to disconnect the electricity supply provided to the bungalows constructed by the petitioner within a period of fifteen days and, thereupon, it would be open to the Torrent Power AEC Limited to disconnect the electricity supply provided to the bungalows constructed by the petitioner.

(7)The petitioner shall file an Undertaking before the Torrent Power AEC Limited to the effect that in the event the Building Use Permission is not granted by the Ahmedabad Municipal Corporation, the petitioner will have no objection to disconnection of electricity supply provided to the bungalows constructed by it. This Undertaking shall be filed along with the application/form/format meant for the purpose.

5. Rule is made absolute subject to above referred to directions. There shall be no order as to costs. Direct Service is permitted.

(J.M.Panchal,J.)

(Smt. Abhilasha Kumari, J.)

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